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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,332	03/12/2004	Simon Peter Edwards	2002-016	9013

7590

11/03/2005

The Watson Intellectual Property Group PLC
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Hudsonville, MI 49426

EXAMINER

DOUGLAS, STEVEN O

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No.	Applicant(s)	
	10/800,332	EDWARDS ET AL.	
	Examiner	Art Unit	
	Steven O. Douglas	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-84 is/are pending in the application.
- 4a) Of the above claim(s) 46, 50-58, 62, 66-69, 73, 75, 80 and 84 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 59-61, 63-65, 70-72, 74, 76-79 and 81-83 is/are allowed.
- 6) ☒ Claim(s) 44, 45 and 48 is/are rejected.
- 7) ☒ Claim(s) 47 and 49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>09262005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of Specie I. in the reply filed on 9-26-05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Accordingly, claims 46,50-58,62,66-69,73,75,80 and 84 are withdrawn as being drawn to non-elected subject matter.

Claim Rejections - 35 USC § 112

Claim 45 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 45, it is indefinite as to whether the "skirt portion" (lines 1 and 2) are the same as that defined in claim 44 on line 6.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 44,45 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams'837 et al.

The Adams'837 et al. reference discloses a container comprising a flexible wall 16, a spout member 19, a cap member 12 having a flange (proximate reference numeral 19 in Fig.7) and a skirt portion made up at least partially by removable tab 46 and band 44.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Gordon et al., and Scholle et al. references pertain to flexible containers with associated spouts and fitments with frangible features.

Claims 59-61,63-65,70-72,74,76-79 and 81-83 are allowed.

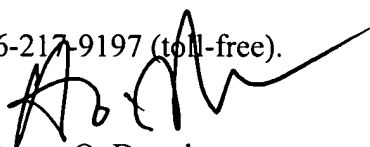
Claims 47 and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven O. Douglas whose telephone number is (571) 272-4885. The examiner can normally be reached on Mon-Thurs 6:00-6:30.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven O. Douglas
Primary Examiner
Art Unit 3751

SD
10-31-05